

August 18, 2004

DALE WASHAM
PO BOX 73634
PUYALLUP WA 98373

SUBJECT: Complaint filed against Cathy Pearsall-Stipek - PDC Case No. 02-294

Dear Mr. Washam:

The Public Disclosure Commission staff has completed its investigation of your complaint alleging that Cathy Pearsall-Stipek violated the Public Disclosure law by using the facilities of the Pierce County Auditor's Office to assist her 1998 re-election campaign. You also alleged that Ms. Pearsall-Stipek, and her Deputy Auditor, Pat McCarthy, used the facilities of the Pierce County Auditor's Office to assist Ms. McCarthy's 2002 campaign for Pierce County Auditor. The portion of your complaint alleging that Ms. McCarthy had violated RCW 42.17.130 was dismissed on July 22, 2002.

Your complaint was initially received April 3, 2002. On September 13, 2002, we advised you that investigation of your complaint had been suspended pending the outcome of a Permanent Injunction that had been issued in King County concerning the Commission's application of RCW 42.17.130. The investigation was restarted on March 3, 2004.

The PDC staff reviewed your allegations in light of the following statutes:

RCW 42.17.128 states in part: "Public funds, whether derived through taxes, fees, penalties, or any other sources, shall not be used to finance political campaigns for state or local office."

RCW 42.17.130 prohibits elected officials, their employees, and persons appointed to or employed by a public office or agency from using or authorizing the use of public facilities, directly or indirectly, for the purpose of assisting a candidate's campaign or for the promotion of, or opposition to, any ballot proposition. This prohibition does not apply to activities that are part of the normal and regular conduct of the office or agency.

WAC 390-05-273 defines “normal and regular” conduct to mean conduct which is (1) lawful, i.e. specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e. not effected or authorized in or by some extraordinary means or manner.

You alleged that Cathy Pearsall-Stipek used public facilities to promote her 1998 election campaign for Pierce County Auditor and to promote the 2002 election campaign of Pat McCarthy for Pierce County Auditor by:

- Placing Ms. Pearsall-Stipek’s name on Pierce County Auditor letterhead, Pierce County Auditor Annual Reports, Voters’ Pamphlets, Election Information & Election Statistics manuals, absentee ballots and return envelopes.
- Adding Pat McCarthy’s name to the Pierce County Auditor letterhead and publications.
- Establishing satellite offices and placing Ms. Pearsall-Stipek’s name on banners and voter notification flyers.
- Continuing the satellite offices from 1999 to 2001 in anticipation of Ms. McCarthy’s candidacy for Pierce County Auditor in 2002.

We found that:

- Cathy Pearsall-Stipek’s name and title have been on Pierce County Auditor letterhead since her appointment in 1993. Ms. Pearsall-Stipek added Pat McCarthy’s name and title when Ms. McCarthy was hired in 1999 and the responsibilities of the exempt Deputy Auditor position were increased.
- The style of letterhead is similar to that used by other county auditors and other public agencies. Ms. Pearsall-Stipek’s name and photo have regularly appeared in Auditor’s office publications, some of which are provided to voters and candidates for informational purposes.
- The use of Ms. Pearsall-Stipek’s name and photo was not extraordinary.
- Ms. Pearsall-Stipek implemented voter outreach programs in response to passage of the National Voter Registration Act of 1993 that mandated procedures be established to increase the number of eligible citizens registered to vote.
- Ms. Pearsall-Stipek began using satellite offices in temporary locations in the community to accomplish the National Voter Registration Act mandate. The satellite offices have continued on a yearly basis and have been successful in registering a large number of voters. For example, in 2001, 1,959 voters were registered at 23 satellite offices locations. Signs and voter notifications identify the County Auditor and the individuals providing services at the satellite locations. All Auditor staff appearing before the public are required to wear Auditor office identification.

- The use of Ms. Pearsall-Stipek's name and title and Ms. McCarthy's name and title on letterhead and Auditor publications was not excessive. Since 1993, Ms. Pearsall-Stipek created many new programs and publications in the Auditor's office and has included her name on these publications. As such, the use of Ms. Pearsall-Stipek's name and title, and Ms. McCarthy's name and title, on letterhead and Auditor publications constituted normal and regular conduct.
- We found no evidence that the satellite offices were started or advertised to assist Ms. Pearsall-Stipek's campaign or that continuing the satellite offices was done in anticipation of Ms. McCarthy's candidacy for Pierce County Auditor in 2002.

Thus, we did not find evidence that Ms. Pearsall-Stipek used the facilities of the Pierce County Auditor's Office to assist her campaign or the campaign of Ms. McCarthy.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation and, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against Cathy Pearsall-Stipek.

Sincerely,

Vicki Rippie
Executive Director

c: Cathy Pearsall-Stipek
Pat McCarthy